REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed September 29, 2006. At the time of the Final Office Action, Claims 38-74 were pending in this Application. Claims 1-37 were previously cancelled by Applicants without prejudice or disclaimer. Claims 38-74 were rejected. Claims 39, 41-42, 45-47, 51, 53-54, 56-57, 60-61, 64, and 73-74 have been amended. Claims 38, 48, and 50 have been cancelled. New claim 75 has been added. Applicants respectfully request reconsideration and favorable action in this case.

Claim objections

Claim 46 was objected to as being dependent on a subsequent claim. Applicants have amended Claim 46 to depend on Claim 45. Applicants thank the Examiner for identifying this error and respectfully request the Examiner to withdraw the objection.

Rejections under 35 U.S.C. § 102

Claims 38-45, 47-55, and 57-74 were rejected by the Examiner under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 7,047,399 issued to Andrew C. Sturges et al. ("Sturges").

With respect to independent Claim 38, Applicants have cancelled Claim 38, added new independent Claim 75, and amended claims previously directly dependent on Claim 38 to dependent on Claim 75. Like Claim 38, Claim 75 recites a device for controlling processing of incoming data elements including first, second, and third units. The first unit fetches a first unit instruction for processing a first data element, the second unit fetches a second unit instruction also for processing the first data element. The second unit instruction succeeds a stipulated instruction of a stipulated thread. A first multiplexer receives the first and second instructions and outputs a selected instruction based on the multiplexer control signal. The third unit receives and decodes the selected instruction. The third unit includes a condition evaluator to evaluate a condition associated with repetitive execution of the first unit instruction and a thread comparator to compare a first thread associated with the first data element with a preceding thread associated with a preceding data element. The third unit has a control signal generator

receiving outputs from the condition evaluator and the thread comparator. The control signal generator generates at least one control signal including the first multiplexer control signal based, at least in part, on the outputs.

Applicants submit that Claim 75 is not anticipated by Sturges. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Sturges does not anticipate Claim 75 because Sturges does not teach, for example, a control signal generator to generate at least one control signal including a control signal for a multiplexer that selects between the first unit instruction and the second unit instruction based on outputs from a condition evaluator and a thread comparator. Accordingly, Applicants respectfully request the Examiner recognize new Claim 75 as reciting subject matter not anticipated by Sturges.

With respect to Independent Claim 57, amendments analogous to the amendment made to Claim 38 have been made to Claim 57 and analogous remarks apply to the anticipation rejection of independent Claim 57 as amended.

With respect to Independent Claim 73, Applicant has amended to recite, among other elements, a third unit operable to decode instructions and further operable to generate at least one control signal to select the first unit instruction for decoding when a condition Y is not met and to select the second unit instruction for decoding when the condition is met and a context of an instruction at target Z is the same as a context of the instruction X. Because this element implies a comparison of a context of an instruction at Z and a context of instruction X, the amended claim is not anticipated by Sturges, which does not teach evaluating contexts of instructions.

Rejections under 35 U.S.C. §103

Claim 46 was rejected under 35 U.S.C. §103(a) as being unpatentable over Sturges. Claim 56 was rejected under 35 U.S.C. §103(a) as being unpatentable over Sturges in view of U.S. Patent 5,483,552 issued to Hiroaki Shimazaki et al. ("Shimazaki"). Applicants submit that the Section 103(a) rejection of these dependent claims is moot in view of the amendments making the independent claims allowable over Sturges because the rejection of Claim 46 is based solely on Sturges as prior art and there is nothing disclosed in Shimazaki teaching or suggesting the elements of independent claims 57 and 73 as amended herein or new independent claim 75.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Association of Customer Number and Change of Correspondence Address

Applicants respectfully request that all papers pertaining to the above-captioned patent application be associated with Customer No. **58174**, and direct all correspondence pertaining to this patent application to practitioners at Customer Number **58174**. All telephone calls should be directed to Joseph P. Lally at 512.322.2680.
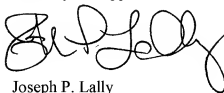
CONCLUSION

Applicants believe this paper contains a reply to each ground of objection and rejection set forth in the office action. Applicants respectfully request favorable action on all pending claims.

Applicants believe no fees are due, however, the Commissioner is hereby authorized to charge any other fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2680.

                                        Respectfully submitted,
                                        BAKER BOTTS L.L.P.
                                        Attorney for Applicants

                                        Joseph P. Lally
                                        Reg. No. 38,947

Date: November 29, 2006

SEND CORRESPONDENCE TO:
BAKER BOTTS L.L.P.
CUSTOMER ACCOUNT NO. **58174**
512.322.2680
512.322.8383 (fax)